



Dora
Department of Regulatory Agencies
Division of Real Estate

The Official Publication of the Colorado Division of Real Estate

APRIL 2012

Real Estate *news*

A CHANCE TO SERVE YOUR INDUSTRY

Each board and commission that the Division of Real Estate serves will be losing valuable members as they move on in their careers and open up their positions for others to fill. If you've thought about serving as a member of the Board of Real Estate Appraisers or Board of Mortgage Loan Originators, the Office of Boards and Commissions is accepting applications for consideration.

Each position is a Governor appointment, so the Division isn't able to accept applications or appoint members on its own. Terms are generally three years, with each member needing to seek reappointment when a current term ends. If you're interested in having the opportunity to serve your industry and work closely with the Division, the Division encourages you to fill out an application. The Board of Real Estate Appraisers and the Board of Mortgage Loan Originators will both be looking to fill their vacancies by September.

To download a copy of the application or to find out more information about each board or commission, visit www.colorado.gov, click on "Offices of the Governor" and select "Boards and Commissions."



Director's Corner

By Marcia Waters, Division Director

Consumers Need to Select the Title Company

Whenever real property is bought and sold, the purchaser and lender, if there is one, want to insure that the title of the property is clear. Title insurance is the indemnity contract between the consumer or the consumer's lender and the insurer to cover past defects in the chain of title. If there is a problem

that arises with the title of the property, the insurer will fix the problem, defend the consumer against it, or compensate the consumer for any losses. Unlike other types of insurance, title insurance insures against acts that have already happened and only requires a one-time premium payment. The owner's title

Con't on pg. 2



Con't from pg. 2

insurance policy covers the owner's interest in the property and usually insures for the amount that the owner paid to purchase the property. The lender's title insurance policy covers the lender's interests in the property and it usually insures for an amount equal to the mortgage loan amount.

By law, no one can require the purchase of title insurance from a specific company. The tradition in Colorado is for the seller to select the title company and pay for the owner's policy. This serves as an assurance to the buyer that the title is clear. The buyer pays for the lender's policy, to assure the lender that the title is clear. However, we may see this tradition change due to some of the issues that have faced the title industry. At the Division of Real Estate, we continue to hear concerns about title companies that have held earnest money deposits at the time they became insolvent and ceased operating. We have also heard growing concerns about out-of-state title companies who are not aware of the local issues that may affect the transfer of title. The Division of Insurance has seen numerous complaints about companies issuing "generic exceptions" to the title. Generic exceptions to the title may not address the localized issues of transfer fees, sub-HOAs, easements, covenants, minerals or water, to name a few.

With the ongoing concerns about title practitioners, the Division of Real Estate would like to see a shift in the role that real estate brokers play in the selection of title companies. The consumer regularly looks to the real estate broker for guidance on title company selection, and the broker often obliges by recommending one particular title company. We are aware that the standard of practice exists with brokers that the broker provides the consumer with the names of three settlement service providers and the consumer ultimately makes the selection. The Division would like to see this standard of practice applied to title companies. The consumer needs to play an active role in selecting the title company, including comparing

rates and services provided. Additionally, the consumer should be engaging the services of the title company, not the real estate broker.

The Division has growing concerns that if brokers continue to be actively involved in title company selection and engagement, they are increasing their risk of having consumer complaints filed with the Real Estate Commission. On occasion, the Commission has received complaints regarding brokers who have selected the settlement service provider, who in turn performed inferior services. In cases where the broker only provided one name, and the consumer complaint was supported with evidence, the broker faced disciplinary action. The Division and the Commission understand that in some parts of the state, it may not be possible to provide the names of multiple settlement service providers. The consumer still needs to be responsible for selecting the settlement service provider. Consumers can research licensed title entities at the Division of Insurance's website at www.dora.state.co.us/insurance/.



Dora
Department of Regulatory Agencies
Division of Real Estate



Investigator Harold Ovsowitz at the REALTOR Rally

Division Staff Out and About at Industry Events

The Division of Real Estate is taking steps to foster more open relationships with the different real estate industries it serves by becoming more visible and accessible. Staff from the Division will be speaking, attending or exhibiting at several industry and community events throughout the year.

Most recently, the Division staffed a DORA booth at the 2012 REALTOR Rally, held at the Colorado Convention Center on February 22, and the 2012 CMLA Lenders Fair on April 5 at the Marriott Tech Center. Rally attendees were able to interact with staff members from different sections within the Division and get answers to most questions they had. Fliers and handouts created for the Rally were distributed in an effort to keep real estate brokers informed on the rules regarding Errors & Omissions insurance and making sure continuing education classes have been approved by the Colorado Real Estate Commission.

There was also a transaction file checklist that became a hot-ticket item after Director Marcia Waters mentioned it during her second speaking engagement during the event. Director Waters spoke twice during the REALTOR Rally to different groups and both sessions were well-received.

The 21st Annual Lenders Fair put on by the Colorado Mortgage Lenders Association also featured Division staff manning a booth in the exhibit hall. Deputy Director Cary Whitaker and Education, Communications and Policy Manager Eric Turner were on hand to answer questions and ensure that mortgage loan originators were kept in the loop on industry news and notes. Earlier in the day, Governor John Hickenlooper spoke to lenders who attended the keynote lunch.

Plans to reach out to consumers at events throughout the year are underway and Director Waters has several upcoming speaking engagements on her calendar. Stay tuned for information where you might see the Division next!

THE HONORABLE JOHN W. HICKENLOOPER
Governor of Colorado

Barbara Kelley
Executive Director
Department of Regulatory Agencies
Marcia Waters
Director, Division of Real Estate
Cary Whitaker
Deputy Director, Division of Real Estate

COLORADO REAL ESTATE COMMISSION

COLORADO BOARD OF MORTGAGE LOAN ORIGINATORS

COLORADO BOARD OF REAL ESTATE
APPRAISERS

COLORADO CONSERVATION EASEMENT OVERSIGHT
COMMISSION

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(ARELLO)

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The Changing Face of DORA.com

Over the next several weeks and months, you'll start to notice changes to the appearance and functionality of the DORA website and subsequently the Division of Real Estate's website. A new look and new navigation is being developed to make the agency's and the Division's homepage easier to use. Among the changes will be a cleaner brighter background and a look that is similar to the Colorado.gov pages.

Not all changes will be live at the same time, so you may notice the old look as you navigate further into the website. Rest assured that all of the pages will get a refreshed look but the entire project is expected to take about 12 months to complete. The move toward a new look is being implemented to make the site more user-friendly, switch all State agencies over to the same platform and create consistency among Divisions and Departments across Colorado.



At this time, links on the Division of Real Estate's website aren't affected too much and you shouldn't notice any problems locating the documents you're looking for. If you do have links to writeable forms, continuing education rules, the meeting schedules or the license verification page, you will want to keep an eye out for the changes. When the links begin to change, they will still redirect to the proper documents if you have old links saved as favorites, but over time they will stop working and will become broken links. So you'll want to update your favorites so that you don't have to search for everything all over again.

Division staff recommend that everyone start familiarizing themselves with a new way to access the Division's homepage: www.askdora.colorado.gov. Type this link into your web browser. Once you're on the DORA homepage, click on "Division of Real Estate" on the left-hand side. This will take you to our main page. From there, the navigation and links will remain the same for the time-being.

Upcoming Board and Commission Meetings

Board of Real Estate Appraisers

- 5/3/2012 - Suite 1250c
- 7/12/2012 - Suite 110D

Colorado Real Estate Commission

- 6/5/2012 - Suite 1250C
- 8/07/2012 - Suite 1250C

Conservation Easement Oversight Commission

- 6/4/2012 - Suite 1250C
- 8/27/2012 - Suite 1250C

Board of Mortgage Loan Originators

- 5/16/2012 - Suite 1250A
- 7/18/2012 - Suite 1250A

Mortgage Loan Originator Task Force

- 5/30/2012 - Suite 1250C
- 6/27/2012 - Suite 1250C

All meetings start promptly at 9 a.m. and are held at 1560 Broadway, Denver, CO 80202
Members of the public are allowed to attend.



Dora
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Division of Real Estate

Errors & Omission Insurance Non-Compliance Numbers Steadily Declining

The Division of Real Estate's most-recent errors & omissions insurance audit results show increased compliance among active real estate brokers. Active brokers are required to carry a current policy at all times and failure to do so results in the inactivation of a license until proof of a current policy is provided. To ensure compliance, the Division began auditing licensees on an annual basis back in 2009, pursuant to Commission Rule D-14.

By comparing information supplied from insurance companies and licensees, the Division found during the 2009 audit that 4,700 licensees didn't meet the requirements. Non-compliance not only causes headaches for licensees, it also creates additional work for the Division as staff members who have to process additional paperwork to reactivate the licenses.

YEAR	NON-COMPLAINT LICENSEES
2012	1,700
2011	2,200
2010	3,600
2009	4,700

In response to the high number, the Division began informing real estate brokers of the long-standing requirement to carry E & O insurance at all times. Just four short years later, the number of non-compliant licensees was dramatically reduced to less than half of the number in 2009.

Colorado Real Estate Commission Rule D-14 explains in detail the requirements for errors & omissions insurance. For more information on the Rule, please consult the 2012 Real Estate Manual or visit www.askdora.colorado.gov and click on "Division of Real Estate."

New Valuation Advisory from the Appraisal Practices Board (APB) of The Appraisal Foundation

On March 7 the APB released their Advisory #2, "Adjusting Comparable Sales For Seller Concessions." In this 17-page document, the APB provides guidance on how an appraiser can identify, verify, analyze and adjust sale comparables for both seller and financing concessions.

Some of the highlights include:

- "Sales Concessions" and "Financing Concessions" are defined.
- Techniques for verifying concessions and their impact are discussed.
- Illustrations are provided to help determine when an adjustment for concessions is needed.
- Circumstances that commonly involve concessions are identified and discussed.
- Several methods to determine adjustments are examined.
- The impact of concessions on development of the Cost Approach and Income Approach is discussed.
- A list of resources is provided for additional reading and research.

The APB's guidance represents "generally accepted methods and techniques," and compliance is voluntary. Appraisers are reminded that they must be able to support their use of these or other methods and techniques, understand the method or technique, and ensure that it leads to credible assignment results.

Advisory #2 can be accessed at <https://appraisalfoundation.sharefile.com/d/s54c9756b83f43f5a>.



INDUSTRY EXPERTS

This section is reserved for articles written and submitted by members of the real estate industry with varied experience in different fields. The views and opinions expressed are those of the author and do not represent the views or opinions of the staff of the Division of Real Estate or DORA.

Spring is Almost Here ... Are we seeing a Sellers Market?

By Jetta Yackovetta. Jetta has been in the real estate industry for 25 years, starting out as a general contractor. She moved to Boulder, Colo., in 1994 working with commercial leasing and residential sales clients. Currently, she owns and operates West USA Realty of Colorado.

Spring is almost here and as we gear up for our prime selling season, a few good things to keep in mind when working with Buyers and Sellers.

We have a great opportunity to get listings as inventory levels in the Denver Metro area are at historic lows. Mortgage rates remain enticingly low. The national average rate for a 30-year fixed-rate mortgage was 3.89 percent in February, according to Freddie Mac.

Sellers Market?

That term hasn't been heard since we entered a new decade! But it's back. Let's take a look at what is happening in the marketplace!

Denver has seen a reduction in inventory of close to 42% since January of last year, which is a new historic low. As many of us are seeing in certain neighborhoods and price points – especially in the under \$350,000 market, Sellers are seeing multiple offers within days of the home being placed on the market. Buyers who aren't motivated and determined are losing out to higher offers, cash buyers and those Buyers ready to make a decision. We have to inform our Buyers that they no longer have weeks if not days to put in an offer, and the indecision that accompanies that – looking at a few more so “we're sure we like this one the best”. In talking to several of the listing agents, the \$200,000 to \$350,000 price points are moving quickly. In some cases, Sellers are getting above asking price causing the price in those neighborhoods to increase. Average days on the market has also declined by close to 14%.

In higher end neighborhoods and a few specific communities, we still have a higher inventory of homes for sale, with some sellers who haven't adjusted their price, condition of the home and their expectations. As professionals, we do our homework

and present the information to our Buyers so they can also make informed decisions. For Sellers – PRICE, PRICE, PRICE – that is what sells the property. If the price is right, the property will most likely sell in a shorter period of time. If your Seller is motivated, adjustments from your initial analysis may be warranted to catch the eye of the right Buyer! Buyers are savvier; they are going to make offers based on their own analysis – most times with some negotiation factor figured in.

Another factor to support the upcoming Sellers market - the number of Single Family homes available. Average days on market are down, prices are increasing, under contracts have increased, even for the “pending” sales.

With Denver's metro area population of over 2,000,000 residents, we currently have just over 8,000 Single Family properties available and there are approximately 2,000 condominiums on the market. And we've seen an average sold price increase over last month as well which is a strong indicator that the pendulum is swinging towards a Sellers market.

If you have a Seller thinking of selling, now is the time to get their house on the market. With the trends we are seeing they are going to be competing with all of the other sellers who have great brokers to work with. Realistic and appropriate pricing is part of what's pushing the swing towards a Sellers market, coupled with low inventory. The Sellers who have their properties on the market are paying more attention to their brokers and where they need to be priced to get the property sold.

What a great time for real estate in Denver!



Dora
Department of Regulatory Agencies
Division of Real Estate

INDUSTRY EXPERTS

National Appraisal Board Adopts Changes to the Real Property Appraiser Qualification Criteria

The Appraisal Foundation is pleased to announce that Proposed Revisions to the Real Property Appraiser Qualification Criteria (Criteria) have been adopted by the Appraiser Qualifications Board (AOB). The AOB is an independent Board of The Appraisal Foundation. The AOB is responsible for developing minimum qualifications for education, experience, examination and continuing education for real property appraisers in the United States.

The Criteria, which were adopted at the December 2011 meeting of the AOB, will be effective on January 1, 2015. The changes to the Criteria are the result of five public exposure drafts, covering a period of 15 months. Feedback was received from interested parties in the form of comment letters as well as comments made to the Board at public meetings. The changes to the Criteria will affect individuals seeking a real property appraiser credential as of January 1, 2015. It is important to note that individual State Appraiser Regulatory Agencies may opt to implement the Criteria earlier than the 2015 deadline.

A summary of the changes to the Criteria include:

- Education and experience will have to be completed prior to taking the National Uniform Licensing and Certification Examinations;
- Applicants for the Certified Residential and Certified General classifications will have to possess a Bachelor's degree or higher from an accredited college or university;
- Applicants for the Licensed Residential classification will have to have successfully completed 30 semester hours of college-level education from an accredited college, junior college, community college, or university, or have an Associate's degree or higher from an accredited college, junior college, community college, or university;
- All candidates will be required to undergo a background check;
- Recognition of approved university degree programs as counting toward the education requirements in the Real Property Appraiser Qualification Criteria;
- Removal of the "Segmented" Approach to the Real Property Appraiser Qualification Criteria implementation;
- Prohibition of repetitive continuing education in the same continuing education cycle;
- Clarification of the term "written examination";
- Revisions to the Trainee Appraiser classification that will include a requirement to take a course oriented to the requirements and responsibilities of Trainee Appraisers and Supervisory Appraisers;
- New Supervisory Appraiser requirements;
- Revisions to Guide Note 1; and
- Additions to the illustrative list of educational topics acceptable for continuing education.



A more detailed summary of the changes to the Criteria is available at the following links:

<https://appraisalfoundation.sharefile.com/d/sd2f26fafefe402ab>

October 2011 AOB Exposure Draft and Comments: <http://www.appraisalfoundation.org/>

The Appraisal Foundation: <http://www.appraisalfoundation.org/>



Dora
Department of Regulatory Agencies
Division of Real Estate

INDUSTRY EXPERTS

Mortgage Loan Originators: Simplified Disclosures = Complex Considerations For You

By Tammy Campbell and Geoffrey Schroder are compliance counsel to Harland Financial Solutions, Inc

Arguably the most familiar disclosures in a mortgage loan transaction are the Real Estate Settlement Procedures Act (RESPA) Good Faith Estimate (GFE), the Truth in Lending Act (TILA) disclosure and the HUD-1 Settlement Statement. These disclosures are designed to provide consumers with critical information to help them shop for a mortgage loan. As mortgage loan originators ("MLOs"), you use these disclosures on a daily basis and know them like the back of your hand. However, unbeknownst to many MLOs, a project is currently well underway to dramatically overhaul these application and closing disclosures. Without question, these key disclosures will be changing, and MLOs should get involved in the rulemaking process now to ensure that the changes are of benefit to both consumers and the mortgage industry.

Over the course of the past year, the Consumer Financial Protection Bureau (CFPB) has been pursuing a project called "Know Before You Owe". The goal: to combine the application disclosures and closing disclosures required under TILA and RESPA, as mandated under Section 1032 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). So far the CFPB has tested numerous prototypes of the combined application and closing disclosures, and has collected comments and feedback from consumers and industry groups. The result of all of this testing will ultimately be a proposed rule expected to be issued by the CFPB this summer. This article will provide an overview of what's happened in the Know Before You Owe project to date, and will examine what's coming next in this important project, including the complex review process required under the Small Business Regulatory Enforcement Fairness Act (SBREFA).

What's Happened So Far: Prototype Testing.

To date the CFPB has completed five rounds of testing of various prototype versions of a combined RESPA/TILA application disclosure (i.e., a combination early TILA disclosure and GFE). Each round consisted of at least two formats presented for purposes of comparison of specific features. From Round 1's Ficus Bank and Pecan Bank formats to Round 5's Pinyon Bank and Yucca Bank formats, the CFPB has received well over 20,000 comments from consumers and industry participants. Focus groups have been convened in several cities across the nation. The disclosures have evolved from a sparse and perhaps overly simplistic two-page format to a fairly dense three-page format that brings together the various disclosure requirements currently spread across several regulatory sources – Regulation Z, HUD's Regulation X, and Title XIV of the Dodd-Frank Act.



Some significant characteristics of the new formats include:

- **Tabular formatting** – in keeping with the current regulatory trend to present information to consumers in easy-to-read tables, the latest format provides tables for important loan terms, projected payments and escrow information, estimated cash to close, closing costs, adjustable rate details, a shopping comparison chart, and other required disclosures.
- **Focus on plain vanilla loans** – most prototypes have centered on traditional fixed rate or ARM loans, without significant variations in loan terms and repayment plans. A certain amount of dynamic



Dora
Department of Regulatory Agencies
Division of Real Estate

INDUSTRY EXPERTS

formatting will have to be contemplated in order to provide the flexibility required for non-traditional loan features, including irregular payments and construction-to-permanent financing scenarios.

- **Departure from settlement statement format** – the difference in presentation of the estimated closing costs between that of the settlement statement (even as revised further in the CFPB closing disclosure project discussed below) may present complications for automated systems in tracking tolerance requirements and classifying charges as finance charges.

Upon completion of Round 5 of the revised RESPA/TILA application disclosure, the CFPB turned its efforts to mortgage closing disclosures and provided another three rounds of settlement prototypes (i.e., a combination closing TILA disclosure and Settlement Statement). As mentioned above, the settlement statement presentation may create issues in tracking estimated fees disclosed at application through to closing due to a potential lack of standard or uniform conventions for the placement of fees in a consistent manner between the application and closing disclosures. A comprehensive proposed rule will be the first step in reconciling some of these discrepancies.

What's next?

Under the Dodd-Frank Act, before the CFPB can issue a proposed rule, it must determine if the new rule will potentially have a significant impact on a substantial number of small entities (i.e. small businesses). If it will, the CFPB is required to convene what is known as a SBREFA panel. A SBREFA panel is a panel of industry experts and small business advocates whose role is to assist the CFPB in ensuring that the rule it ultimately will propose contains the fewest negative impacts on small business as possible. The CFPB has already announced through its blog that it will convene a SBREFA panel to examine the issues impacting small business in relation to the combining of these key disclosures. In its blog announcement, the CFPB released several guidance documents that will assist the SBREFA panel in its review. One of those documents, an outline, provides MLOs with some helpful insights into what the CFPB's proposed rule will ultimately look like.



"In order to further encourage early provision of these estimates, the CFPB is considering a proposal that would remove the seventh item ("any other information deemed necessary by the lender") from the definition of "application".

Currently, TILA defers to the definition of "application" contained in RESPA. RESPA provides that an application is complete when the lender has collected the borrower's name, monthly income, social security number to obtain a credit report, property address, estimate of the value of the property, loan amount sought, and "any other information deemed necessary by the loan originator". From looking at this language in the SBREFA outline document, it appears that the CFPB is concerned that lenders have used the "any other information" catch-all to delay providing early disclosures until additional information is collected on the loan. The CFPB is of the opinion that this hinders the applicants' ability to shop around, and is considering removing this item from the definition of an application.

"The proposals under consideration by the CFPB would apply the zero tolerance to a larger range of charges."

In the outline the CFPB states that it is considering expanding the zero tolerance charge category currently in effect to include costs for services provided by "a company that is owned by or affiliated with the lender" and companies "selected by the lender". The CFPB is of the opinion that the lender should be better able to predict the costs of services provided by affiliates and chosen providers.

Con't. on pg 10



Dora
Department of Regulatory Agencies
Division of Real Estate

INDUSTRY EXPERTS

"The CFPB is considering issuing a proposal to require delivery of the integrated Settlement Disclosure three business days before closing in all circumstances."

The CFPB has drawn up two alternatives to accomplish this consideration. Alternative one is to make the Lender solely responsible for delivery of the closing disclosures to the borrower. Alternative two would require the TILA information to be delivered by the lender, and the RESPA information to be delivered by the settlement agent, with the settlement agent and lender jointly responsible for the completion of the information in the disclosure.

The outline also discusses the possible revival of part of the Federal Reserve's proposed rules put on hold in 2009 by removing many of the existing exclusions from the finance charge and calculation of the annual percentage rate. The CFPB feels that this change would "reduce compliance burdens, regulatory uncertainty, and litigation risks for creditors". However, this could result in more loans being considered to be high cost and/or high price, which adds additional compliance burdens for lenders.



What Happens After The SBREFA Panel? Proposed Rule.

The CFPB has announced that after the SBREFA panel review is complete, it expects to issue a proposed rule on the combined disclosures by July 2012. Due to the complex nature of the goal of this rulemaking, the proposal is expected to be over a thousand pages in length. The issuance of a proposed rule will signal the last opportunity for the mortgage industry to submit comments and to suggest changes these critical disclosures. If you haven't been involved in making comments to the CFPB up to this point, take some time now to get familiar with the various prototypes previously issued, and to prepare to submit comments when the proposed rule is issued.

The RESPA/TILA consolidation project will result in a substantial change for MLOs, even more so than the GFE overhaul of a few years ago. If that memory still makes you wince, now is the time to begin following the CFPB's Know Before You Owe rulemaking process and plan on getting involved by providing comments to bring some industry influence to bear of the final product.

Tammy Campbell and Geoffrey Schroder are compliance counsel to Harland Financial Solutions, Inc., located in its Englewood, Colorado office. Harland Financial Solutions serves as a strategic technology partner and business facilitator to more than 6,000 financial institutions of all sizes, supplying comprehensive software solutions and services in core systems, business intelligence, branch automation, payments, enterprise content management, lending and compliance, loan servicing, risk management, financial accounting, mortgage

Interested in contributing to the Real Estate News?

Each quarter the Division of Real Estate's quarterly newsletter is sent to more than 40,000 licensees. If you are a real estate industry subject expert and would like to contribute an article, let us know. Articles must be original works and may not be copied from other publications. If you would like to submit your article or article idea, please email Eric Turner, Education, Communications and Policy Manager, at eric.turner@dora.state.co.us.



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Division of Real Estate

Upcoming Public rulemaking Hearings:

At the May 16, 2012 Board of Mortgage Loan Originator meeting, the following rules are scheduled for public rulemaking hearings:

- **Rule 1-1-8 S.A.F.E. Act Compliance Rule**

- This proposed rule seeks to create consistency with the S.A.F.E. Act and to implement process required by the S.A.F.E. Act. S.A.F.E. Act definitions proposed to be adopted into Colorado regulation include the following: a residential mortgage loan; an employee; an independent contractor; taking a residential mortgage loan application; and offering or negotiating terms of a residential mortgage loan. Additionally, this proposed rule seeks to adopt a process through which mortgage loan originators may challenge information on the NMLS and defines how the Board views bona fide non-profits and when they will be investigated. All rulemakings are open to public attendance and comment.

- **Rule 8-1-1 Mortgage Loan Originator Advertising**

- This proposed rule seeks to exempt promotional items from Colorado specific advertising requirements. Promotional items are defined as any advertisement which indirectly promotes a credit transaction and which contains only the name of the mortgage company, the name and title of the mortgage loan originator, the contact information of the mortgage company or the mortgage loan originator, a mortgage company logo, or any license or registration numbers that may be included on coffee mugs, pens, pencils, youth league jerseys, signs, business cards, or other promotional items. Such an exemption is proposed to extend to rate sheets, pricing sheets, or similar proprietary information provided to real estate brokers, builders, and other commercial entities that is not intended for distribution to consumers.

At the June 5, 2012 Colorado Real Estate Commission meeting, the following rules are scheduled for public rulemaking hearings:

- **Rule D-14 Errors And Omissions (E&O) Insurance**

- This proposed rule seeks to address the dual e/o policy requirements for licensees and the real estate entity. All active real estate licensees shall have in effect a policy of errors and omissions insurance to cover all acts requiring a license. If the active licensed real estate entity employs no other active licensed real estate brokers, the responsible broker needs only to have in effect a single errors and omissions insurance policy to cover all acts requiring a license. This policy should be purchased to cover the individual's license, not the licensed entity. This only applies to single policy holders. Group policies are not affected by this change.

- **Rule E Separate Accounts – Records – Accountings – Investigations**

- This proposed rule seeks to clarify prohibited inducements for settlement services in federally funded transactions. Repeal the prohibition of home warranty companies from paying a fee, commission or other valuable consideration for services rendered in connection with the sale of a pre owned home warranty and clarify the licensees' responsibilities in disclosing affiliated business arrangements.

To review all permanent rules, please visit www.sos.co.state.us and click on "Rules and Regulation."



Proposed Real Estate Industry Legislation in 2012

The 2012 Colorado legislative session is winding down and with it will be the final outcomes of two proposed bills that impact the real estate industry, and specifically the Division of Real Estate. Each bill listed below has not been signed by Governor Hickenlooper, are not yet in effect.

Proposed legislation that will have the biggest impact is House Bill 12-1110 Regulation of Appraisal Management Companies. There is also legislation to clarify the current open records law to protect documents relating to ongoing investigations and to make wind rights severable from real property.

House Bill 12-1110 - Regulation of Appraisal Management Companies

- Require AMCs to be licensed by the Division of Real Estate.
- Require the AMC to maintain an office or appointed Supervising Appraiser in Colorado.
- Require each AMC carry errors & omissions insurance and surety bond.
- Give the Division of Real Estate authority and jurisdiction to investigate complaints, present findings to the Board of Real Estate Appraisers and take disciplinary action.

House Bill 12-1036 Concerning Clarification of the Exemption From the "Colorado Open Records Act" For Investigative Files.

Allows the custodian of the record to deny the right of inspection of the following records on the grounds that inspection is contrary to the public interest:

"... investigatory files compiled for any other law enforcement purpose, including records of ongoing civil or administrative investigations that focus on a person or person outside of the investigating agency and are conducted by the state or its executive departments in furtherance of their statutory authority to protect the public health, welfare or safety."

House Bill 12-1105 Wind Energy Property Rights

- Ties wind energy rights to surface estates and makes the rights non-servable.
- Wind energy would become real property and a wind energy agreement must be signed and filed with the county clerk and recorders office.

Complete texts of each bill can be found on the Colorado General Assembly's website,



Disciplinary Action Taken by the Real Estate Commission

Alphabetical by last name, real estate brokers only. List contains discipline from January 1, 2012 - March 31, 2012.

Bauer, Kimberly A.—Public Censure, Fine and Coursework

Carrillo, Alfonso A.—Order for Permanent Injunction

Colson, James C.—Revocation and Fine

Dippenaar, Alburtus J.—Public Censure, Fine, Probation Requiring Supervision

Dyson, Andrew Mark—Suspension, Probation Requiring Supervision, Fine, Coursework & Public Censure

Elder, Harry C.—PC, May not apply for any licensure for 1 year, Must be Supervised upon re-licensure

Elias, Maryse C.—Revocation and Fine

Espinoza, Benny C.—Public Censure, Suspension, Probation Requiring Supervision, Fine and Coursework

Gordon, Diane Elaine—Public Censure, Fine, Suspension, Restricted from Property Management & Supervision of Others and Coursework

Hawley, Robert B.—Voluntary Surrender, Stayed Fine and Public Censure

Jackson, Thadaus Shuvon—Revocation and Fine

Jefcoat, Sherry L.—Order of Summary Suspension

Jones, Desmond—Order of Permanent Injunction

Kats, David A.—Public Censure, Fine and Probation

Leczinski, Chad D.—Public Censure and Fine

Leist, Ashley E.—Permanent Revocation, Stayed Fine and Public Censure

MacDaniel, Sherman—Voluntary Relinquishment, Stayed Fine and Public Censure

Myers, Kimberly Diane—Revocation and a Fine

Nelson, Carolyn R.—Revoked, Stayed Fine and Public Censure

Saiz, Maria C.—Permanent Surrender, Stayed Fine and Public Censure

Smith, Alvin R. III—Revocation

Waldron, Scott A.—Permanently Revoked, Public Censure and Stayed Fine

Waltz, Valerie—Permanent Surrender, Stayed Fine and Public Censure

***Note: This notice serves to inform the public of the current and/or most recent disciplinary action taken against the individual listed. It DOES NOT, nor should it be intended to, serve as a complete listing of any and all discipline taken against the licensee. For complete license information including license status and additional disciplinary actions, please visit www.askdora.colorado.gov and click "Division of Real Estate."*



Disciplinary Action Taken by the Board of Mortgage Loan Originators

Alphabetical by last name, MLOs only. List contains discipline from January 1, 2012 - March 31, 2012.

Anaya, Gustave—Public Censure and Fine

Auhll, Robert R.—Permanent Injunction - Revoked, Restitution and Suspended Fine

Beach, Jake—Cease & Desist

Bradford, Brian J.—Public Censure, Fine and Restitution

Burg, Frank Ray—Public Censure and Stayed Fine

Danko, Mary—Fine

Garcia, Mario—Cease & Desist

Lyon, Jason C.—Public Censure and Fine

Martinez, Teresa—Cease & Desist

Nelson, David C.—Voluntary Relinquishment, Stayed Fine and Public Censure

Rasher, Kevin—Cease & Desist

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Disciplinary Action Taken by the Board of Real Estate Appraisers

Alphabetical by last name, appraisers only. List contains discipline from January 1, 2012 - March 31, 2012.

Bown, Albert—Relinquishment

Chandler, Summer—Summary Suspension

Curtis, Ted—Relinquishment

Hardin, James—Relinquishment

Kalous, Michele—Relinquishment

Mcdaniel, Heidi Relinquishment

Mirocha, Marion—Revocation

Newman, Gary—Fine, Course Work, Two Year Probationary Review Period

Reed, Suzette—Fine, Course Work, Work Product Review

Schaberg, Stephen—Relinquishment

Snyder, Donald—Relinquishment

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